

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Wilson Broadcasting Co., Inc.)
Licensee of Radio Station WAGF(AM))
Dothan, Alabama)

File Number EB-01-AT-464
NAL/Acct. No. 200232480005
FRN 0004-3330-19

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 10, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Wilson Broadcasting Co., Inc. ("Wilson"), licensee of radio station WAGF(AM), Dothan, Alabama, willfully and repeatedly violated Section 73.49 of the Commission's Rules ("Rules")¹ by failing to enclose its antenna tower within an effective locked fence or other enclosure. We conclude that Wilson Broadcasting Co., Inc. is apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000).

II. BACKGROUND

2. On April 23, 2002, an agent of the Federal Communications Commission ("FCC") Enforcement Bureau's Atlanta Field Office ("Field Office") conducted an inspection of the WAGF transmitter site and antenna structure. The station's antenna structure with a folded unipole AM broadcast antenna attached was not enclosed by any fencing or other enclosure. Also, the radio frequency feed wire from the tuning box to the antenna was not protected by any fencing or other enclosure. The antenna had radio frequency potential at the base of the antenna structure.

3. On April 24, 2002, an agent of the Field Office inspected station WAGF. It was again noted that the station's antenna structure with a folded unipole AM broadcast antenna attached was not enclosed by any fencing or other enclosure. The antenna had radio frequency potential at the base of the antenna structure. The station owner and licensee, J. R. Wilson, stated that the station had been operating for about one month and that the fencing had not yet been installed.

III. DISCUSSION

4. Section 73.49 of the Rules states that antenna towers having radio frequency potential at the

¹ 47 C.F.R. § 73.49

base must be enclosed within effective locked fences or other enclosures. On April 23 and 24, 2002, WAGF's antenna structure with a folded unipole AM broadcast antenna attached was not enclosed by any fencing or other enclosure. Also, the radio frequency feed wire from the tuning box to the antenna was not protected by any fencing or other enclosure. The antenna had radio frequency potential at the base of the antenna structure.

5. Based on the evidence before us, we find that, on April 23 and 24, 2002, Wilson Broadcasting Co., Inc. repeatedly² and willfully³ violated Section 73.49 of the Rules.

6. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for the violation cited in this notice is \$7,000 for AM tower fencing violations.⁴ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁵ Considering the entire record, the potential safety hazard of this violation, and applying the statutory factors listed above, this case warrants a \$7,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Wilson Broadcasting Co., Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for repeated and willful violation of Section 73.49 of the Rules.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Wilson Broadcasting Co, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The

² Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 47 C.F.R. § 1.80(b)(4)

⁵ 47 U.S.C. § 503 (b)(2)(D)

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

13. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Wilson Broadcasting Co., Inc. at Radio Station WAGF(AM), 808 N. Oates St., Dothan, AL 36303.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.